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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-128
	)	
	)	
	)	

REPLY COMMENTS OF LCI INTERNATIONAL TELECOMMUNICATIONS, INC. ON PETITIONS FOR WAIVER OF THE CODING DIGITS REQUIREMENT

LCI International Telecommunications, Inc. ("LCI"), by its attorneys, submits the following reply comments on petitions for waiver of the coding digits requirement ("petitions") submitted in the above-captioned docket.[1] LCI did not submit initial comments on the petitions, but is now compelled to file these reply comments to correct several misstatements by LEC commenters concerning the need for unique information digits identifying compensable payphone calls. For the reasons set forth below, LCI opposes the petitions for waiver of the coding digits requirement.

Of paramount concern to LCI is a claim asserted in comments of the RBOC/GTE/SNET Payphone Coalition ("Coalition") regarding the ability of interexchange carriers to pay per-call compensation by "matching" LEC ANI lists and call records. In an attempt to ostracize AT&T and conceal the damage their delay has done to the compensation

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[1] *See Public Notice*, DA 97-2214 (rel. Oct. 20, 1997). The parties who filed petitions are USTA, the LEC ANI Coalition, and TDS Communications Corporation.

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plan, the Coalition states that to its knowledge, carriers other than AT&T "will have no trouble paying per-call compensation based on LEC ANI lists."[2] This claim by the Coalition is just wrong. The LECs' failure to pass unique information digits severely compromises LCI's ability to implement the Commission's "market-based" approach to payphone compensation just as much as it compromises AT&T's and other IXCs' abilities. Without one of the central premises of the compensation plan -- the ability of IXCs to identify payphone calls -- LCI will be subjected to payphone compensation obligations that are unknown, unrecoverable, and uncontrollable.

As shown below (in LCI's case) and as the record makes clear for others, the IXCs have implemented per-call capabilities in good faith reliance on the requirement that payphones will transmit unique coding digits as part of the ANI. Due to the LECs' own inexcusable failure to act promptly, those coding digits are now unavailable. Everyone agrees that this upsets the Commission's plans for per-call compensation. However, although LCI understands the FCC's desire to "fix" compensation, it is patently unfair to remedy the problem by excusing the parties responsible for it and penalizing those carriers that acted in reliance on the FCC's rules. Therefore, the only equitable solution is for the Commission to deny the waiver requests and to rescind the erroneous *Waiver Order*.[3] The Commission also should aggressively oversee the LECs' prompt compliance with the Payphone Orders. In the meantime, IXCs should not have to implement totally new systems to address the fact that unique digits will not be available. Rather, PSPs denied compensation due to the LECs'

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[2] The Coalition implies that AT&T agrees with this proposition because it cited only Frontier as another carrier that may face similar problems. Coalition Comments at 3.

[3] Order, DA 97-2162 (Comm. Car. Bur. Oct. 7, 1997) (*Waiver Order*).

failure should be permitted to recover lost compensation from the LEC, either through damages in a complaint proceeding or through LEC-paid payphone compensation. Also, the Commission should rule that LECs who have failed to implement unique digits are ineligible to receive compensation on their own phones so long as they are not in compliance.

I. Unique Coding Digits Are Essential To LCI's Per-Call Compensation System.

Like AT&T and the entire class of compensation payors, LCI will have expended several million dollars and countless personnel hours to develop a system to process payphone calls in a per-call compensation environment. As a result of the Commission's "market-based" plan, LCI identified three requirements for its per-call compensation system. First, it must be able to determine, during setup, that a call originated at a payphone. This is a critical first step (though only the first step) in developing the capability to block unwanted payphone calls. Second, the system must allow LCI to recover the increased costs associated with payphone compensation through a surcharge on payphone-originated calls. Third, the system must identify call records for compensable payphone-originated calls and segregate them in order to pay compensation to the appropriate payphone owner for each call. Though the LECs and PSPs may be concerned only with this third requirement (that they collect their money), the first two requirements are critical to LCI's ability to manage payphone compensation and recover the enormous expenses imposed by the compensation plan. Each of these requirements is like a leg on a three-legged stool. Without any one of them, the whole chair collapses.

LCI designed its systems with one central assumption: that each payphone will transmit coding digits at the time of the call that uniquely identify it as a payphone call. One year ago, the Commission established this requirement in the clearest of terms. It ruled that in order to be eligible for per-call compensation, payphones must "transmit specific payphone coding digits as part of their ANI," identifying the origninating number as a payphone "and not merely as a restricted line."[4] Thus, LCI built its systems based on the expectation that ANI information digits would uniquely identify the class of payphone calls.

Currently, LCI's blocking capabilities are limited. Using the unique coding digits it expects to receive, LCI can block all payphone calls from its system (*e.g.,* all calls transmitting the "27" identifier for "dumb" payphones can be blocked). LCI has received requests from its customers for more sophisticated blocking capabilities (such as the ability to block for some calls or some customers), and it continues to work toward this capability. However, a unique payphone identifier, transmitted as part of the ANI, is a fundamental component of LCI's plans for selective blocking of unwanted payphone calls.

Similarly, LCI uses the unique payphone coding digits to identify and flag payphone calls for billing purposes. At the $.284 rate selected by the Commission, LCI's per-call liability will be in the millions of dollars per year. LCI simply cannot compensate at such levels without recovering the additional expense from its customers, and it plans to pass the expenses through on a per-call basis. In order to accomplish this, LCI will flag the call based upon its coding digit and assess a surcharge on those calls. This must be done at the

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[4] *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, Order on Reconsideration, 11 FCC Rcd 21,233, at ¶ 64 (1996).

time the call is processed, in order to ensure it is billed along with all other associated charges for the call. If the coding digit is not unique to payphones, however, LCI will be in the intolerable position of choosing between potentially surcharging for non-payphone calls or failing to surcharge for compensable calls. Moreover, it is not an acceptable solution to await the ANI lists to determine whether a surcharge should apply because this will divorce the surcharge from the remainder of the call transmission charges. Such two-stage billing will confuse and antagonize LCI's customers, and will cause them to question the integrity of LCI's billing systems.

Moreover, LCI has a number of reseller customers using its facilities-based network. For those customers that are switchless resellers, LCI will bill the reseller for each compensable call. Billing data usually is provided to reseller customers much more frequently than for its retail customers, increasing the importance of the immediate identification and billing of compensable calls.

For payment of compensation, LCI's system similarly relies upon the unique coding digit to segregate compensable calls. LCI will flag and maintain *only* those calls for which it receives payphone-specific coding digits. With LCI's large volume of call records, it is infeasible to screen all of its call records against the ANI lists and to maintain these call records for the prescribed period.[5] Instead, LCI will maintain all calls transmitting the

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[5] Under the FCC's rules, PSPs not included on the LEC ANI lists have up to one year after publication of the list to claim compensation. Thus, potentially compensable calls must be maintained for at least 15 full months (3 months until the list is provided and then one year thereafter). It is infeasible for LCI to maintain every single call record for such a time period. In addition, because these calls would not be identifiable as payphone calls at the time they are placed, LCI will be unable to recover its compensation costs if a PSP files a later request for compensation.

unique coding digits, and screen the ANI list against those records. However, as a practical matter, the *Waiver Order* and the requested waivers will require LCI to segregate and maintain tens of thousands of (irrelevant) uncompensable calls *each day*.

II. LCI Should Not Be Required To Implement A New System To Accomodate The LECs' Failure To Comply With The Payphone Orders.

Because LCI directly relied upon the Commission's requirement that payphones transmit specific coding digits at the time of the call, forcing LCI to develop a *second system* now -- with no notice whatsoever -- is patently unfair (even if it were feasible, which it is not). The company has invested significant amounts of time and money in designing its current tracking and compensation system based upon the clear requirements of the FCC's rules. Those systems are in place and were ready to be implemented on October 7, 1997. LCI should not now be required to implement a new system, which supplements but does not replace the old system, due to the LECs' failure to hold up their end of the bargain.

LCI would face the same types of problems that AT&T and Frontier will face in implementing "band-aid" solutions for the waiver period. Indeed, it seems likely that most, if not all, other carriers would have relied upon the Commission's coding digits requirement as LCI did. Thus, the Coalition's assertion that "virtually every other IXC can do" what AT&T cannot[6] -- immediately implement an entirely new per-call compensation system -- is simply illogical and unjustified.

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[6] Coalition Comments at 4.

The only support the Coalition cites for this preposterous claim are the requests to pay per-call compensation filed by two carriers with negligible volumes of compensable calls.[7] However, those waiver requests (which the Commission has not ruled upon) at best demonstrate that, if the call volumes are low enough, problems in identifying compensable calls become insignificant. For example, Amnex reports that its monthly volume of compensable calls is at most 46,000 calls, slightly more than one-tenth of LCI's *daily* volume of compensable calls.[8] With such a small volume, it probably is cheaper for an Amnex to overpay compensation by paying on some non-payphone ANIs than it is to develop a system relying upon unique payphone coding digits. Put simply, carriers with few compensable calls do not need to be as sophisticated in their compensation management systems as LCI or most of the class of carriers with compensable calls. Thus, one cannot generalize based upon the unique circumstances of two carriers claiming negligible volumes of calls.

CONCLUSION

For these reasons, it is impractical and unfair to alter the Commission's clear requirements for per-call compensation at this time. Unique coding digits are critical to LCI's ability to comply with the Commission's per-call compensation system, and LCI has justifiably relied upon the expectation that it will receive such digits. It would be grossly unfair to require LCI to implement a new compensation system as a solution to the LECs'

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[7] Coalition Comments at 3 (citing Telco Communications Group and Amnex).

[8] Letter from Amy S. Gross, Amnex to A. Richard Metzger, FCC, at 3, dated September 23, 1997 (CC Docket No. 96-128).

complete disregard for the Payphone Orders' unique coding digits requirement. The Commission should deny the LECs' requests to be excused from this requirement and rescind the *Waiver Order*. If the lack of unique coding digits has caused some PSPs to lose compensation through no fault of their own, the Commission should, through complaint proceedings or by rule, require the LECs to provide that compensation.

Respectfully submitted,

LCI International Telecommunications, Inc.

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